

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**SHANNON BLACKWELL**

**RESPONDENT,**

**v.  
DIRECTOR OF REVENUE**

**APPELLANT.**

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DOCKET NUMBER WD78669

DATE: May 3, 2016

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Appeal From:

Clay County Circuit Court  
The Honorable Karen L. Krauser, Judge

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Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, James E. Welsh, Judge and Anthony Rex Gabbert, Judge

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Attorneys:

Jeffrey S. Eastman, Gladstone, MO, for respondent.

Daniel N. McPherson, Jefferson City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**SHANNON BLACKWELL,**

**RESPONDENT,**

**v.**

**DIRECTOR OF REVENUE,**

**APPELLANT.**

No. WD78669

Clay County

Before Division Three: Gary D. Witt, Presiding Judge, James E. Welsh, Judge and Anthony Rex Gabbert, Judge

The Director of Revenue (the "Director") appeals a trial court's judgment setting aside the revocation of Shannon Blackwell's driving privileges. The Director argues that the trial court erred in excluding the results of Blackwell's blood alcohol test.

**WE REVERSE AND REMAND**

**Division Three holds:**

- (1) The trial court erred in excluding the blood alcohol test because the Director failed to show that the simulator used to test the breath analyzer had been calibrated against a National Institute of Standards and Technology approved thermometer in connection with the simulator's maintenance after Blackwell's blood alcohol test was administered. Any failure to calibrate after a blood alcohol test is administered goes to weight of the evidence not admissibility.

Opinion by Gary D. Witt, Judge

May 3, 2016

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